



CPAs & BUSINESS ADVISORS

OTA Conference — Tax Update

November 10, 2023

PRESENTER



Jason Oelrich, CPA
Partner-in-Charge, Tulsa Tax Department

TODAY'S AGENDA

Key Inflation Reduction Act Credits & Incentives

SECURE 2.0 – 401(k) Tax Provisions

Other Tax Planning Considerations for Businesses

IRS and FinCEN Developments

Oklahoma Tax Updates



KEY INFLATION REDUCTION ACT CREDITS & INCENTIVES

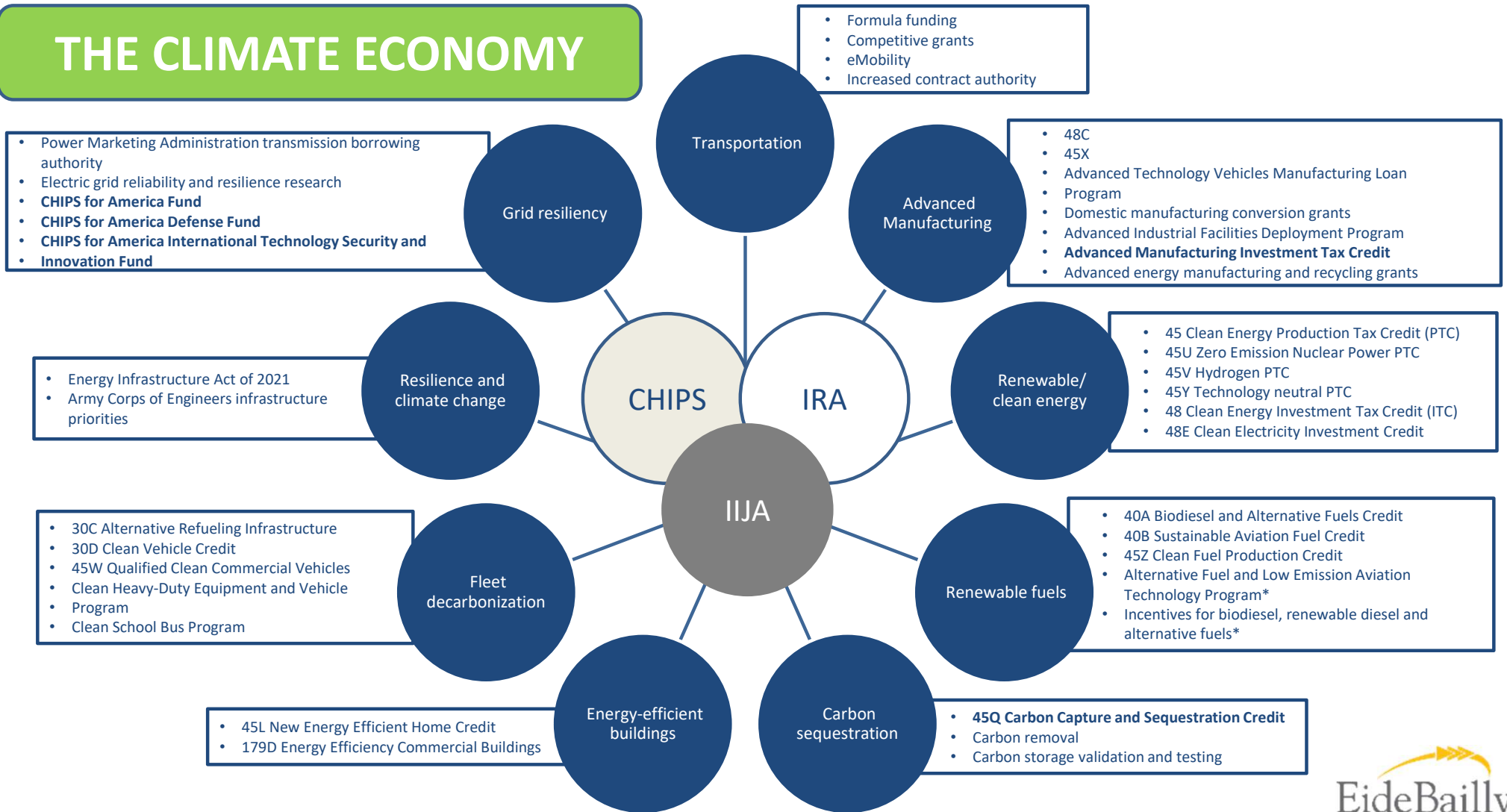
THE CLIMATE ECONOMY

\$569.5 billion of energy incentives
according to the Congressional Budget
Office

\$1.7 trillion of energy incentives according
to investment bank Credit Suisse



THE CLIMATE ECONOMY



IRA PROVISIONS – ALTERNATIVE FUELS AND VEHICLES

- Credits for biodiesel, renewable diesel, biodiesel mixtures, alternative fuels, alternative fuel mixtures and second- generation biofuels extended through 2024.
- Commercial credit for clean vehicles of up to \$7,500 if GVE is under 14,000 pounds. For vehicles 14,000 pounds or greater, the credit is up to \$40,000.
- \$7,500 per car clean vehicle credits modified beginning in 2023:
 - Vehicle sales caps eliminated.
 - Domestic content requirements established.
 - Credits limited based on cost of car (\$55,000/\$80,000) and AGI of purchaser (\$300,000 MFJ).
 - Can be transferred to dealerships as a partial payment after December 31, 2023.
- Used clean vehicle credit (lesser of \$4,000 or 30% of price).
- Alternative fuel vehicle refueling property credits modified and restored at a 30% credit rate up to \$100,000 per property in qualified census tracts if wage & apprenticeship requirements met.



SECTION 179D ENERGY EFFICIENT DEDUCTION

Section 179D is available for HVAC, building envelope and lighting projects, up to \$5.00 deduction per square foot.



ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION – PRIOR VS. TODAY

SECTION 179D PRIOR

- \$1.80-\$1.88 deduction per square foot
- Lighting, HVAC and Envelope
- Life-time cap
- Started in 2006 and has since been made permanent
- Applies to private owners, and designers of government buildings

SECTION 179D IN THE IRA

- Status through 2032:
- Base Deduction: \$0.50 to \$1.00 per SF
- Bonus Deduction: \$2.50 to \$5.00 per SF
- Lighting, HVAC and Envelope
- **Three-year cap**
- **Enhancement for REITs**
- Applies to private owners, and designers of government, **Indian tribal government and certain tax-exempt entities buildings**

§179D ENERGY EFFICIENT DEDUCTION

Private

- Extended permanently
- Form 3115 back to January 1, 2006
- Building owners or tenants
- Energy modelers
- Professional Engineers licensed in state

Designers of Public

- Extended permanently
- Amended returns in open tax year
- Exempt Org assigns to designers
- Architects, Engineers and Contractors
- Energy modelers
- Professional Engineers licensed in state



SECURE ACT 2.0 – 401(k) Tax Credit Provisions

SECURE 2.0 Tax Credits for Small Businesses

Startup tax credits – For 2023 the tax credit for starting a new plan increased from 50 percent to 100 percent for employers with up to 50 employees.

- Small businesses can earn an additional credit for making employer contributions, up to a per-employee cap of \$1,000. This full additional credit is limited to employers with 50 or fewer employees and phased out for employers with between 51 and 100 employees.
- The applicable percentage is 100 percent in the first and second years, 75 percent in the third year, 50 percent in the fourth year, 25 percent in the fifth year – and no credit for tax years thereafter.



SECURE 2.0 Tax Credits for Small Businesses

Military Spouse Tax Credit – Tax credit for eligible small businesses that employ military spouses and allow them to participate in their plan subject to special eligibility and vesting requirements.

- The tax credit equals the sum of (1) \$200 per military spouse, and (2) 100 percent of all employer contributions (up to \$300) made on behalf of the military spouse, for a maximum tax credit of \$500.
- This credit applies for 3 years with respect to each military spouse – and does not apply to highly compensated employees.





OTHER TAX PLANNING CONSIDERATIONS FOR BUSINESSES

EXPIRED/EXPIRING PROVISIONS

- **199A** – The IRC Sec. 199A deduction that allows a noncorporate taxpayer a 20% deduction on qualified income, is still scheduled to sunset in 2025.
- **Meals** – Deduction reduced to 50% starting in 2023, but there are some situations where still 100% deductible:
 - Food for recreational employee events, such as holiday parties, summer picnics, or team-building events.
 - Food provided to the public to promote goodwill (e.g., snacks or coffee for customers).
 - Food for events in support of a [charitable cause](#).
 - Meals provided to the employees for the convenience of the employer (e.g., dinner for employees who work late at the office).
 - Meals included as taxable compensation to employees or independent contractors.
 - Meals sold to a client or customer.

FIXED ASSETS

Section 179 up to \$1,160,000 for 2023.

80% bonus depreciation in 2023 (60% in 2024).

Sec. 179D deduction for energy-efficient building improvements (current expense v. 39-year depreciation).

Fixed asset studies to minimize 39-year property.

Gross Receipts for Limitations on Business Interest

- For 2023 Section 163(j) limits business interest payments for taxpayers with gross receipts of \$29 million or more.
- The business interest limitation is 30% of ATI — and depreciation, amortization, and depletion are no longer added back in computing ATI.
- The amount of deductible business interest expense cannot exceed the sum of:
 - The taxpayer's business interest income,
 - 30% of the taxpayer's adjusted taxable income (ATI).



EXCESS BUSINESS LOSS LIMITATION WAS EXTENDED THROUGH 2028

The 2023 excess business loss limits are \$289,000 for single taxpayers and \$578,000 on joint returns.

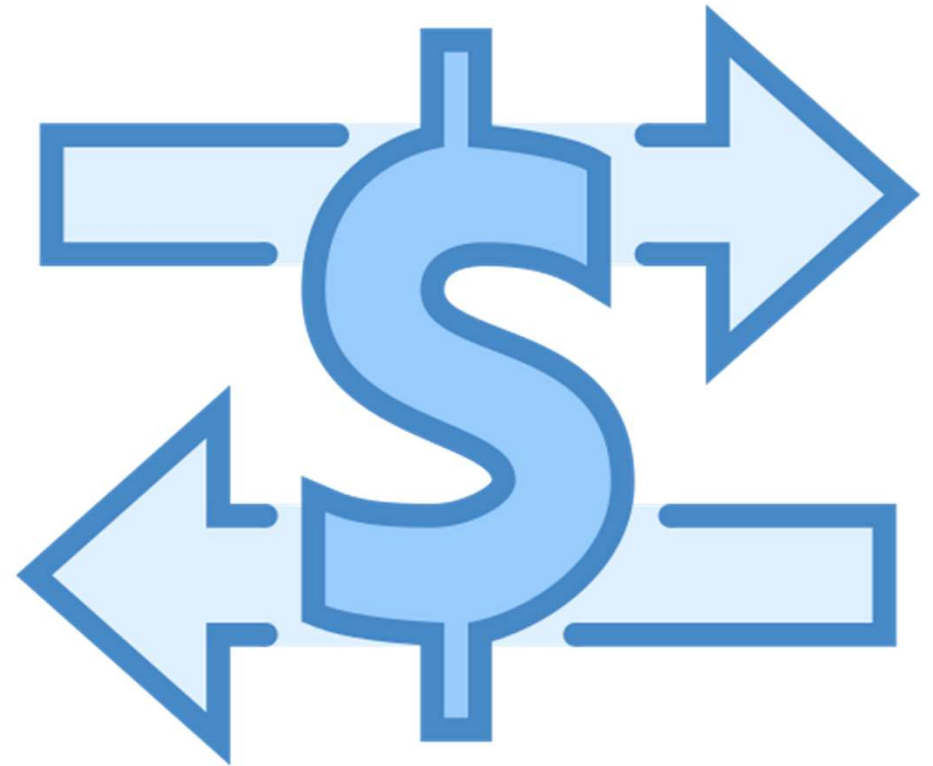


Capitalization of Research and Development Costs

- Under TCJA, the expensing of specified research and experimental expenditures (SRE) was allowed only through December 31, 2021.
- Beginning in January 2022, that provision expired, and companies must now amortize their SRE costs over a five-year period, beginning in the midpoint of their tax year.
- IRS Notice 2023-63 provides further guidance, including:
 - Identification and allocation of SRE expenditures
 - Software development
 - Research performed under contract
 - Application to long-term contracts
 - Short taxable years
 - Disposition, retirement or abandonment of property

Estate Tax & Gift Tax

- 2023 Gift exclusion amount is \$17,000 per person.
- Lifetime estate exemption will fall back to \$5 million in 2026 (From 2023 at \$12,920,000 for an individual and \$25,840,000 for a married couple).
 - The exemption as of the sunset date is expected to be somewhere between \$6 million and \$7 million per person.





IRS & FinCEN DEVELOPMENTS

IRS UPDATES ON ERC CLAIMS

Moratorium on processing ERC claims beginning 9/14/2023, until at least 12/31/2023:

Why:

Tons of new filings (800k+ awaiting processing).

Rampant fraud.

Taxpayers duped by ERC mills/promotors/bad actors:

IRS concerned honest small business owners are being scammed.

Claims filed prior to 9/14/2023 will be processed.



IRS UPDATES ON ERC CLAIMS

Taxpayers should still assess eligibility and calculate credits to ensure they are able to request a valid refund request when the moratorium lifts.

Special withdrawal option for claims submitted but not yet processed or checks not cashed.

IRS will roll out Settlement Program to repay improperly claimed/received ERC funds.

IRS and Dept of Justice teaming up to address ERC fraud.

ERC CLAIM WITHDRAWAL PROCESS

- ERC Claim Withdrawal Process Requirements – must meet all 4
 1. ERC was claimed on an adjusted employment return (Forms 941-X, 943-X, 944-X, or CT-1X).
 2. Amended return was filed only to claim ERC and not for any other adjustments
 3. Taxpayer wants to withdraw ERC claim in its entirety.
 4. IRS has not paid the claim – or if paid, employer has not cashed or deposited the refund check.
- Per the IRS, accepted withdrawal requests will be treated as if the claim was never filed.
- What if you don't want to withdraw the full claim?
 - To adjust the amount, taxpayers are instructed to file a new adjusted return with the correct amount.

HOW TO WITHDRAW AN ERC CLAIM

- Taxpayers who used a professional payroll company should consult with the company to file the withdrawal.
- Taxpayers who filed their own claims can fax in the withdrawal claim.
 - First page of Form 941-X should have the word “Withdrawn” inserted on left margin.
 - On right margin, authorized person should sign, date, and list name and job title.
 - You may mail the request, but it will take longer.
- If under exam, requests can be completed and sent to the assigned examiner.
- If you have received a refund check but have not cashed or deposited the check, taxpayer will need to mail the withdrawal request and included the voided refund check.



NEW BENEFICIAL OWNERSHIP REPORTING REQUIRED IN 2024

Name of Beneficial Owner

Birthdate of Owner

Address of Owner

“A unique identifying number and issuing jurisdiction from an acceptable identification document (and the image of such document)”

BENEFICIAL OWNERS

- Any individual who “directly or indirectly”:
 - “Exercises substantial control” over a reporting company, or
 - “Owns or controls” at least 25% of the “ownership interests” of a company:
 - *This definition excludes minors if parent or guardian info is reported; nominees, etc.; certain employees; those whose only interest is via inheritances; and creditors.*

COMPANY APPLICANT

- FinCEN defines a company applicant to be only two persons:
 - The individual who directly files the document that creates the entity, or in the case of a foreign reporting company, the document that first registers the entity to do business in the United States.
 - The individual who is primarily responsible for directing or controlling the filing of the relevant document by another.
 - *“The rule, however, does not require reporting companies existing or registered at the time of the effective date of the rule to identify and report on their company applicants.”*



EXEMPTIONS FROM THESE RULES

The rules provide 23 exemptions. “Many of these exempt entities are already subject to substantial federal and/or state regulation or already have to provide their beneficial ownership information to a governmental authority.”

EXEMPTIONS INCLUDE

1. Securities reporting issuer
2. Governmental Entity
3. Bank
4. Credit Union
5. Depository Institution Holding company
6. Money services business registered with FinCEN
7. Securities broker or dealer
8. Securities exchange or clearing agency
9. Other Exchange Act registered entity
10. Investment company or investment adviser
11. Venture capital fund advisor
12. Insurance Company
13. State-licensed insurance provider
14. Commodity Exchange Act registered entity
15. Accounting firm registered under Sarbox Sec. 102
16. Public utility
17. Financial market utility
18. Pooled investment vehicle
19. Tax-exempt entity
20. Entity assisting a tax-exempt entity
- 21. Large operating company**
22. Subsidiary of certain exempt entities
- 23. Inactive entity**



LARGE OPERATING COMPANY

- Employs more than 20 full-time employees in the U.S.
- Has an “operating presence at a physical office within the United States,” and
- Filed a federal tax or information return demonstrating more than \$5 million “in gross receipts or sales”:
 - This means all companies with 20 or fewer employees or less than \$5 million receipts will have to file.



INACTIVE ENTITY

- In existence before January 1, 2020.
- Is not engaged in active business.
- Is not owned by a foreign person “whether directly or indirectly, wholly or partially”.
- Has not experienced any change in ownership in the preceding 12 months.
- Has not sent or received any funds over \$1,000 “either directly or through any financial account in which the entity or any affiliate of the entity had an interest” in the prior 12 months.
- Does not otherwise hold any type of assets including ownership interests.

TIMING OF REPORTS – EXISTING COMPANIES

- Reporting companies created or registered before January 1, 2024, will have one year (until January 1, 2025) to file their initial reports, while reporting companies created or registered after January 1, 2024, will have 30 days after receiving notice of their creation or registration to file their initial reports.
- Reporting companies have 30 days to report changes to the information in their previously filed reports and must correct inaccurate information in previously filed reports within 30 days of when the reporting company becomes aware or has reason to know of the inaccuracy of information in earlier reports.



A top-down view of a desk with a light teal background. On the left is a silver laptop. To its right is a white mouse. Further right is a white coffee cup with a red handle, filled with dark coffee. Below the mouse is a pair of tortoiseshell glasses. In the bottom left corner is a dark brown notebook with a white pen and a yellow pencil.

TIMING OF REPORTS – COMPANIES FORMED AFTER 2023

- New companies must report within 30 days of:
 - The date the company receives notice that creation or registration is effective, or
 - The secretary of state provides public notice that the company has been created or registered.
- Exempt companies have 30 days to file if their exemption is lost.

A red stamp with the word "PENALTY" in bold, uppercase letters, tilted slightly to the right. The stamp is on a light-colored, textured surface. In the bottom left corner, there is a black plastic component, possibly a part of a machine or a tool.

PENALTY

PENALTIES

- Civil penalties of up to \$500 per day.
- Criminal penalties of \$10,000 fines and up to two years imprisonment.



OKLAHOMA TAX UPDATES

SUMMARY OF SELECTED 2023 OKLAHOMA TAX LEGISLATION

HB 1039X - Oklahoma Franchise tax is ending. When does this go into effect?

Tax year 2023 is the last year that franchise tax returns will be required to be filed. Starting with tax year 2024 and beyond, there will be no Oklahoma franchise tax filing requirement.



SUMMARY OF SELECTED 2023 OKLAHOMA TAX LEGISLATION

[710:50-15-119. Parental Choice Tax Credit](#)

Beginning in tax year 2024, a refundable income tax credit is allowed for certain Oklahoma taxpayers who pay, or expect to pay, tuition and fees to an eligible private school on behalf of an eligible student. An eligible taxpayer is someone who is subject to the tax laws of the state of Oklahoma, and who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of the eligible student.

The maximum amount of the credit is determined by the total federal AGI of the student's household during the 2nd preceding tax year:

FEDERAL AGI	MAXIMUM AMOUNT OF CREDIT PER YEAR
Up to \$75,000	\$7,500
\$75,001 - \$150,000	\$7,000
\$150,001 - 225,000	\$6,500
\$225,001 - \$250,000	\$6,000
\$250,001 and up	\$5,000



Q&A



Thank You!

Jason Oelrich

joelrich@eidebailly.com

918.748.5000



CPAs & BUSINESS ADVISORS



CPAs & BUSINESS ADVISORS

Find us online:



eidebailly.com